

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 1999-252-C - ORDER NO. 1999-680
SEPTEMBER 28, 1999

IN RE: Application of Network Access Solutions) ORDER *MR*
Corporation for a Certificate of Public) GRANTING
Convenience and Necessity to Provide Local) CERTIFICATE
Exchange, Exchange Access, and)
Interexchange Telecommunications Services)
within the State of South Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Network Access Solutions Corporation ("NAS" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide both local exchange and long distance resold and facilities-based telecommunications services within the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed NAS to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. NAS complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). On July 14, 1999, Counsel for SCTC filed with the Commission a Stipulation in which NAS stipulated that it would seek authority only in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until NAS provided written notice of its intent prior to the date of the intended service. NAS also stipulated that it was not asking the Commission to make a finding at this time regarding State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity to NAS provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on September 2, 1999, at 11:00 a.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, presided. NAS was not represented by counsel. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

James Aust, Vice President of Advanced Technology for NAS, appeared and offered testimony in support of NAS's application. The record reveals the Company is a Delaware corporation that has been granted authority to transact business in South Carolina. Mr. Aust testified NAS wants to provide broadband telecommunications services to small and medium sized businesses, internet access, corporate telecommunications access and telecommuting access to both local and state government.

More specifically, NAS's services in South Carolina will include a high speed transmission service using digital subscriber line or DSL technology called CuNet. CuNet services are currently being provided in Boston, New York, Philadelphia, Baltimore, Washington, D.C., Richmond, and Norfolk. Mr. Aust testified the Company does not currently intend to offer dial tone services of any type in South Carolina.

In June 1999, NAS completed a public offering of 7.5 million shares of its common stock. The offering raised nearly \$85 million for the Company. According to the record, the Company's financial stability depends on its ability to renew its interconnection agreements with Bell Atlantic. Mr. Aust testified that the Company does not anticipate at this time it will have a problem renewing its interconnection agreement with Bell Atlantic in March 2000 and January 2001.

NAS will market its services by face to face meetings between NAS marketing employees and prospective customers, sales partners, including internet service providers, long distance and local carriers and other networking service companies. Furthermore, Mr. Aust testified the Company will not market its services through telemarketing in South Carolina. NAS has already entered into an interconnection agreement with BellSouth. NAS will use BellSouth's facilities to operate as a facilities-based telecommunications provider in South Carolina. NAS will also rely on BellSouth's Operational Support System services such as pre-ordering, ordering, maintenance and repair and billing. The Company has also initiated negotiations with GTE for an interconnection agreement.

NAS will operate its own billing system and customer service department. According to Mr. Aust, NAS's regulatory contact person is Roger Pool. The Commission Staff should contact Scott Yancey, Chief Financial Officer of NAS, concerning financial information. Finally, Mr. Aust testified that NAS will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

FINDINGS OF FACT

1. NAS is organized as a corporation under the laws of Delaware and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. NAS wishes to provide local exchange services and interexchange services within the State of South Carolina.
3. The Commission finds that NAS possesses the technical, financial, and managerial resources sufficient to provide the service requested.
4. The Commission finds that NAS's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).
5. The Commission finds that NAS will support universally available telephone service at affordable rates.
6. The Commission finds that NAS will provide services which will meet the service standards of the Commission.

7. The Commission finds that the provision of local exchange service by NAS "does not otherwise adversely impact the public interest." S.C. Code Ann. §58-9-280(B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to NAS to provide competitive intrastate local exchange services only to customers located in non-rural areas of South Carolina. Any proposal to provide local exchange service to a customer in a rural incumbent LEC's service area is not included in the instant grant of authority. Further, the Company is granted authority to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), directory assistance, travel card service or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. NAS shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. With regard to the interexchange service offerings of NAS, the Commission adopts a rate design which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the

Commission. In Re: Application of GTE Sprint Communications Corporation, etc.,

Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. NAS shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. NAS shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 6, 1993). Any proposed increase in the maximum rate level for interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

5. If it has not already done so by the date of issuance of this Order, NAS shall file its revised long distance tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. NAS is subject to access charges pursuant to Commission Order No. 86-584 in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale of interexchange service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. NAS shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If NAS changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, NAS shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. NAS shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs NAS to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an

information packet from the South Carolina Chapter of the National Emergency Number Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, NAS, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

12. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

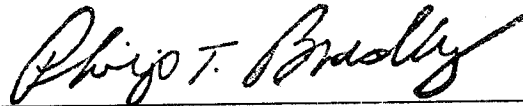
NAS shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

13. NAS shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

14. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

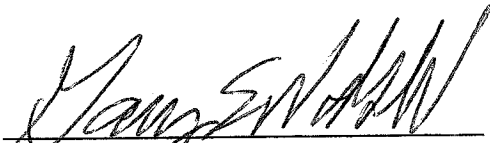
15. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)

DOCKET NO. 1999-252-C - ORDER NO. 1999-680
SEPTEMBER 28, 1999
ATTACHMENT A

**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS
FOR INTEREXCHANGE COMPANIES AND AOS'S**

COMPANY NAME

FEI NO.

ADDRESS

CITY, STATE, ZIP CODE

PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS* FOR
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING _____.
- * THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE* AT DECEMBER 31 OR FISCAL YEAR ENDING
_____.
- * THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING
DECEMBER 31 OR FISCAL YEAR ENDING _____.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3
ABOVE).

SIGNATURE

NAME (PLEASE TYPE OF PRINT)

TITLE

DOCKET NO. 1999-252-C - ORDER NO. 1999-680
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ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-252-C

Re: Application of Network Access Solutions Corporation (NAS))
 for a Certificate of Public Convenience and Necessity to Provide)
 Local Exchange, Exchange Access, and Interexchange) **STIPULATION**
 Telecommunications Services in the State of South Carolina)
 _____)

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Network Access Solutions Corporation ("NAS") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to NAS's Application. SCTC and NAS stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to NAS, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. NAS stipulates and agrees that any Certificate which may be granted will authorize NAS to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. NAS stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. NAS stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until NAS provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, NAS acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. NAS stipulates and agrees that if, after NAS gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then NAS will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. NAS acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service

which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

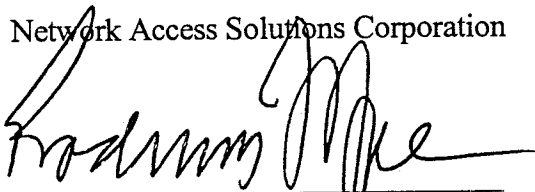
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. NAS agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. NAS hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 7th day of July, 1999.

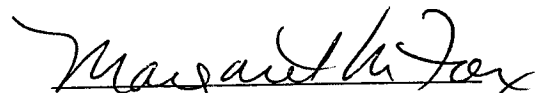
Network Access Solutions Corporation



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Telephone Coalition

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Docket No. 1999-252-C

Re: Application of Network Access Solutions Corporation (NAS))
for a Certificate of Public Convenience and Necessity to Provide)
Local Exchange, Exchange Access, and Interexchange)
Telecommunications Services in the State of South Carolina)

CERTIFICATE OF SERVICE

I, Mia DuRant Briggs, do hereby certify that this day I caused to have served the foregoing Stipulation to the below named party of record, by having same delivered as indicated, this 14th day of July, 1999, and addressed as follows:

U.S. MAIL - FIRST CLASS POSTAGE AFFIXED:

Rodney L. Joyce, Esquire
SHOOK, HARDY & BACON, L.L.P.
Hamilton Square
600 14th Street, Suite 800
Washington, DC 20005-2004



Mia DuRant Briggs

Columbia, South Carolina

ATTACHMENT A
South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company